

Positive Response Television

Division of Positive Response Marketing MAIL SECTION

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

The Honorable Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: RM No. 7984/Oppose Amendment of Commission's Rules to Require
~~Continuous~~ Sponsorship Identification for Program-Length Commercials

Dear Secretary Searcy,

I am writing in opposition to the petition that requests that the Commission amend its sponsorship identification rules as they apply to program-length commercials.

Positive Response Television's "Amazing Discoveries" series has emerged as the leader in the growing field of infomercials. Infomercials serve as a vehicle to educate the consumer on new products that require a longer format than a traditional 30 second commercial. Since its debut in 1989, "Amazing Discoveries" has become a true phenomenon that's now seen 1000 times each month throughout the United States, Canada, and Europe. Created by Positive Response president Mike Levey, the series offers an ideal forum to acquaint viewers with new and innovative products not previously available in stores. "Amazing Discoveries" offers a product or service in an exciting format and is able to catch the attention of its viewers, who often tune in for the entertainment value alone.

Since its inception, the series has set new standards for the American ideal of effective, convenient shopping. Customers simply dial an 800 number to place an order, assured that all products have been tested for performance and reliability. If not completely satisfied, a full refund is forthcoming. We, at Positive Response Television support efforts within the industry to make certain that producers of program-length commercials comply with high ethical standards. Our company has been a member of the National Infomercial Marketing Association since its inception in 1990. It actively support's NIMA's Marketing Guidelines and its efforts to make certain that program-length commercials fully and fairly inform consumers of the commercial nature of the programs. A representative of our company is in attendance at all NIMA functions and our president, Mike Levey, has volunteered as a speaker on numerous occasions. All infomercials produced by Positive Response TV are clearly labelled in accordance with NIMA Guidelines.

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The concern that prompts the petition--that viewers cannot tell that an infomercial is a commercial-- does not provide a basis for going forward. The commercial intent of most infomercials is explicit--they are designed to promote commercial transactions, and the viewer is made well aware of that fact. If any doubt remains, under current industry practice adopted and supported by NIMA, the viewer is made fully aware of the entity disclosure at the beginning and end and before each ordering opportunity. All of our infomercials contain this information.

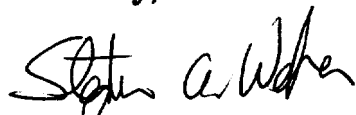
Positive Response TV supports the current regulatory system, in which the Federal Trade Commission is responsible for policing infomercials to make certain they are not false and misleading, including any program whose format or representations attempt to mislead consumers by suggesting that the show is not actually a commercial. The FTC has conducted an aggressive enforcement program over the years against individual programs that have been found deceptive. Nothing has occurred that suggests that the existing division of responsibility between the FCC and the FTC is failing to address the consumer deception problems in infomercials.

Some opponents of infomercials contend that the format is inherently deceptive, because consumers cannot tell the difference between the informational segments of the program and the commercial solicitation. As an illustration, our lawyer was reviewing an infomercial. His three year old son wanted to sit and watch the show. The child watched for a few minutes, and said "This isn't what I want to watch. This is a commercial". My point is that if a three year-old child can recognize an infomercial anyone can.

Infomercials are a legitimate form of commercial speech. By providing revenues to broadcast stations, they help support free, over-the-air television. Furthermore, suggestions that the FCC restrict infomercials, or brand them with special requirements not required of other forms of television advertisements, raise sensitive First Amendment considerations.

Positive Response Television is committed to the belief that the FCC should reject the petition and not initiate a rulemaking to reconsider its sponsorship identification policy to single out program-length commercials for special, adverse treatment.

Sincerely,



Stephen A. Weber
Executive Vice-President